

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

JAN -8 2007

COURT OF APPEALS
DIVISION TWO

CYNTHIAANNE F.,)	
)	
Appellant,)	2 CA-JV 2006-0041
)	DEPARTMENT B
)	
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
ARIZONA DEPARTMENT OF)	Rule 28, Rules of Civil
ECONOMIC SECURITY and)	Appellate Procedure
HESREAL F.,)	
)	
Appellees.)	
)	

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. JD200100001

Honorable Gilberto V. Figueroa, Judge

AFFIRMED

Michael Villarreal

Florence
Attorney for Appellant

Michael J. Brune

Coolidge
Guardian Ad Litem for Appellant

Terry Goddard, Arizona Attorney General
By Dawn R. Williams

Tucson
Attorneys for Appellee Arizona
Department of Economic Security

E C K E R S T R O M, Presiding Judge.

¶1 Cynthiaanne F. appeals from the juvenile court’s January 2006 order terminating her parental rights to her son, Hesreal F., who was born July 9, 2003. After a six-day bench trial, the court found by clear and convincing evidence that Cynthiaanne “suffer[s] from diagnosed mental health issues . . . [and] ha[s] been advised of the diagnosis and ha[s] been offered numerous treatment options” but “ha[s] systematically avoided complying with treatment requirements or ha[s] openly denied having problems and ha[s] refused to participate in treatment.” Additionally, the court found she has “a history of chronic abuse of dangerous drugs . . . [and] tested positive for Methamphetamine at the time of delivery of her three youngest children . . . [but] until recently adamantly denied an addiction and only sporadically participated in treatment.” The court also found that, even after completing substance abuse treatment, Cynthiaanne had relapsed. Based on these findings, the court determined severance was warranted on grounds of mental illness or chronic substance abuse the court reasonably believed would continue for a prolonged period, *see* A.R.S. § 8-533(B)(3); the length of time Hesreal had spent in an out-of-home placement, *see* § 8-533(B)(8)(a) and (b); and the termination of parental rights to another child for the same cause within the preceding two years, *see* § 8-533(B)(10).

¶2 Cynthiaanne argues the juvenile court abused its discretion, claiming the Arizona Department of Economic Security (ADES) failed to establish statutory grounds for

severance of her parental rights under § 8-533(B)(3), (B)(8)(a), or (B)(8)(b).¹ Cynthiaanne does not challenge, however, the court’s finding that severance of her rights to Hesreal was justified because she “has had parental rights to another child terminated within the preceding two years for the same cause and is currently unable to discharge parental responsibilities due to the same cause.” § 8-533(B)(10). Nor does she dispute that her parental rights to her daughter Angel Rose, born in February 2002, were terminated in March 2005 for the “same cause”—namely, Cynthiaanne’s mental illness and chronic substance abuse. *See Cynthiaanne F. and Robert F. v. Ariz. Dep’t of Econ. Sec.*, No. 2 CA-JV 2005-0015 (memorandum decision filed Jan. 11, 2006).

¶3 Although Cynthiaanne suggests in passing that “[t]he evidence supports the proposition that [she] is now ready to parent her child,” she disregards substantial evidence of her long history of instability as well as the opinion testimony of ADES case supervisor Marybeth McGann that Cynthiaanne currently lacks adequate parenting skills. Similarly, although Cynthiaanne maintains that ADES failed to provide adequate reunification services and that she “participated in services and did all that was asked of her,” in fact, the evidence is to the contrary.²

¹Cynthiaanne also argues the state failed to establish that she “neglected or wilfully abused” Hesreal, the ground for termination set forth in § 8-533(B)(2). Because the court did not rely on § 8-533(B)(2) as a basis for terminating Cynthiaanne’s rights to Hesreal, this argument is irrelevant.

²Although the provision of reunification services is not statutorily required for a finding under § 8-533(B)(10), Division One of this court has held efforts to provide such services are constitutionally required unless those efforts would be futile. *See Mary Lou C.*

¶4 On review, we will accept the juvenile court’s findings of fact “unless no reasonable evidence supports those findings” and will affirm a severance order unless it is clearly erroneous. *Jennifer B. v. Ariz. Dep’t of Econ. Sec.*, 189 Ariz. 553, 555, 944 P.2d 68, 70 (App. 1997). Proof of a single statutory ground is sufficient for termination. *See Michael J. v. Ariz. Dep’t of Econ. Sec.*, 196 Ariz. 246, ¶ 27, 995 P.2d 682, 687 (2000). If we can affirm on any one ground, we need not address arguments pertaining to any other grounds. *Id.*

¶5 Here, Cynthiaanne has not challenged the termination of her parental rights pursuant to § 8-533(B)(10), and her mere mention of factors that are coincidentally relevant to the court’s findings on that ground does not amount to such a challenge. *See State v. Carver*, 160 Ariz. 167, 175, 771 P.2d 1382, 1390 (1989) (“Failure to argue a claim usually constitutes abandonment and waiver of that claim.”).³ Because we can affirm the juvenile court’s termination order based on its findings under § 8-533(B)(10), we need not address

v. Ariz. Dep’t of Econ. Sec., 207 Ariz. 43, ¶ 15, 83 P.3d 43, 49 (App. 2004). McGann’s testimony supported the court’s finding that ADES had made diligent efforts to provide appropriate reunification services, including repeated attempts to engage Cynthiaanne in psychiatric evaluations, substance abuse counseling, parenting classes, urinalysis, housing relocation, and visitation with Hesreal. According to McGann, Cynthiaanne did not consistently make use of these services.

³Similarly, Cynthiaanne has waived any argument regarding the court’s best interests finding. With the exception of her pronouncement that “[t]he best interests of all children is to be raised by their parent whenever possible,” she does not challenge the court’s specific finding that Hesreal’s best interests would be served by severance. Instead, she maintains the court erred in finding Cynthiaanne unfit and thus should never have reached the issue of the best interests of the child.

Cynthiaanne's arguments pertaining to other statutory grounds. *See Michael J.*, 196 Ariz. 246, ¶ 27, 995 P.2d at 687. Accordingly, we affirm the juvenile court's order terminating Cynthiaanne's parental rights to Hesreal.

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

J. WILLIAM BRAMMER, JR., Judge

PHILIP G. ESPINOSA, Judge